

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE, ET  
AL.,

*Plaintiffs,*

v.

TATE REEVES, in his official capacity as  
Governor of the State of Mississippi, ET  
AL.,

*Defendants.*

Case No. 3:23-cv-272-HTW-LGI

**PLAINTIFFS' NOTICE OF APPEAL  
OF CONSTRUCTIVE DENIAL OF  
PLAINTIFFS' MOTION FOR A  
PRELIMINARY INJUNCTION RE  
H.B. 1020 § 4 AND § 5**

Plaintiffs hereby give notice that they appeal to the U.S. Court of Appeals for the Fifth Circuit from the Court's constructive denial of their motion for a preliminary injunction with respect to H.B. 1020 § 4 and § 5 (Dkt. 110), including the Court's December 28, 2023 refusal to grant Plaintiffs' motion for an injunction pending appeal (Dkt. 128). Because H.B. 1020 § 4 and § 5 go into effect on January 1, 2024, Plaintiffs are constrained to appeal at this time in order to give the Court of Appeals an opportunity to rule on Plaintiffs' emergency motion for an injunction pending appeal and for a temporary administrative injunction by 11:59 p.m. today, December 31, 2023.

A motion for preliminary injunction is constructively denied for purposes of taking an appeal "when a court declines to make a formal ruling on a motion for a preliminary injunction, but its action has the effect of denying the requested relief." 11A Wright & Miller, Federal Practice and Procedure § 2962 (3d ed.); *see also Clarke v. Commodity Futures Trading Comm'n*, 74 F.4th 627, 635 (5th Cir. 2023) (allowing immediate appeal of district court

inaction that “ha[s] the practical effect of” denying a preliminary injunction (quoting *Carson v. Am. Brands, Inc.*, 450 U.S. 79, 83 (1981))).

Respectfully submitted this 31st day of December, 2023.

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